

FEDERAL ELECTION  
COMMISSION  
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COUNSEL

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DIRECT DIAL  
202.371.7366  
DIRECT FAX  
202.661.0866  
EMAIL ADDRESS  
LNOBLE@SKADDEN.COM

**SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP**

1440 NEW YORK AVENUE, N.W.  
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000  
FAX: (202) 393-5760  
www.skadden.com

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November 7, 2008

**Via Fax and Federal Express**

Jeff S. Jordan  
Supervisory Attorney  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

**RE: MUR 6021**

Dear Mr. Jordan:

We represent the Ballot Project, which was served by letter dated October 20, 2008, with the complaint and supplement in MUR 6021. Enclosed please find the designation of counsel form.

For the reasons stated below, we respectfully request an extension of time to file our response until January 30, 2009. This extension is necessitated by the breadth and vagueness of the allegations in the complaint and the voluminous nature of the exhibits. In addition, the fact that Mr. Nader waited almost four years from the alleged activity being complained about to file the complaint and the Federal Election Commission ("FEC") waited over four months to serve the complaint, means that it will be more time-consuming and difficult for the Ballot Project to fully review the material and attempt to gather the information necessary to adequately respond to the complaint. The requested extension is therefore reasonable and equitable.

**I. THE EXTENSION OF TIME IS NECESSARY DUE TO THE LENGTH OF THE COMPLAINT, THE NUMBER OF EXHIBITS, THE NUMEROUS INDIVIDUALS NAMED AND THE VAGUENESS OF THE ALLEGATIONS**

The original complaint was filed with the FEC on behalf of Ralph Nader by Oliver Hall on May 30, 2008, and alleges violations of the Federal Election Campaign Act in connection with legal challenges to Mr. Nader's nominating petitions during the 2004 presidential election. The original complaint is

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Mr. Jordan  
November 7, 2008  
Page 2

approximately 575 pages long, consisting of approximately 100 pages of allegations and arguments and approximately 475 pages of exhibits. The exhibits appear to consist of numerous newspaper articles, material apparently printed off the Internet and various filed reports.

On October 15, 2008, over four months after the first complaint was filed, Mr. Nader filed what the FEC refers to as a supplement to the complaint. This filing consists of a 100 page document which Mr. Nader claims is a copy of a "Pennsylvania Grand Jury Presentment" and a 16 page cover memorandum which argues that the Presentment not only supports his earlier complaint, but is also evidence of possible "knowing and willful" violations regarding an alleged challenge to the nominating papers of a Senate candidate who ran in 2006. Thus, Mr. Nader's full complaint, with the supplement and exhibits, is now approximately 700 pages in length.

To begin to prepare a proper response to the complaint, we must first figure out what exactly Mr. Nader alleges the Ballot Project did and with whom. The voluminous nature of the filing alone would make this a time-consuming task. However, Mr. Nader has made this task even more time-consuming and difficult.

For example, Mr. Nader alleges in the original 100 page complaint that the Ballot Project undertook certain activities in conjunction with one or more of what he refers to as the other "respondents." Deciphering who the other "respondents" are will take significant time and resources. At various points in the complaint, Mr. Nader refers to "respondents" as over 30 organizations, candidates and federal and state party committees, as well as:

[A]ny other group or individual who unlawfully contributed to the Democratic Party's effort to deny Ralph Nader and Peter Miguel Camejo ballot access in any state as candidates for President and Vice President of the United States in the 2004 General Election, including all John Doe and Jane Doe DNC or Democratic Party employees who contributed to that effort, and all law firms and individual lawyers who unlawfully contributed legal services or resources in proceedings to challenge Nader-Camejo nomination papers in any state (collectively the "Respondents").

Complaint at 2.

This is followed by a reference to "[a]t least 53 law firms and 95 lawyers nationwide." Complaint at 26. A little further on, he has a section entitled "The

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Parties" which lists 153 separate individuals, candidates, law firms and political parties, in addition to Mr. Nader. Complaint at 20-43.

It is obvious that Mr. Nader is using an unrestrained shotgun approach to both making factual allegations and naming those he apparently wants to blame for his inability to get on the ballot in certain states over four years ago. The result is that we are faced with reviewing almost 700 pages of filings, involving an untold number of respondents, to ferret out allegations that may refer or relate to the Ballot Project. This will be a momentous and time-consuming undertaking.

## **II. MR. NADER WAITED ALMOST FOUR YEARS TO BRING THIS COMPLAINT AND THE FEC WAITED OVER FOUR MONTHS TO SERVE THE COMPLAINT**

Mr. Nader waited until almost four years after the activities he complains about allegedly took place before filing the initial complaint on May 30, 2008.<sup>1</sup> Then, for unknown reasons, the FEC waited almost four months, until September 26, 2008, to notify the Ballot Project of the complaint.<sup>2</sup> Thereafter, the Ballot Project notified the FEC that Mr. Nader failed to personally sign the complaint as required by 2 U.S.C. §437g(a)(1). By letter dated October 20, 2008, we were notified that Mr. Nader had refiled the complaint with a proper signature. At the same time, we were served with the 116 page supplement to the complaint.

Because of the passage of time – the almost four years it took Mr. Nader to file his complaint and the additional four months it took the FEC to serve the complaint – it will take the Ballot Project substantial time to locate documents and gather information.

In addition, the complaint broadly brings within its sweep individuals, political parties and organizations who were active in the efforts to elect the 2004 Democratic candidate for president. Undoubtedly, many of those same groups and individuals have been working on the 2008 presidential campaign. Therefore, the Ballot Project must now attempt to gather information just as the 2008 presidential election is ending and the transition between administrations has begun. This will require asking people to immediately focus on what happened during a presidential

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<sup>1</sup> Mr. Nader also waited four months to submit the Pennsylvania Grand Jury Presentment to the FEC.

<sup>2</sup> 2 U.S.C. §437g(a) clearly states that "[w]ithin 5 days after receipt of the complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation."

Mr. Jordan  
November 7, 2008  
Page 4

election that took place over four years ago when another just ended. Given the length of this election and its historic nature, it will take time for us to even be able to determine what information is still available.

Finally, we recognize that an extension to January 30, 2009 is beyond what is routinely given. However, the FEC's delay in serving the Ballot Project necessitates the additional time. A shorter extension will now require most of the work to be done over the holiday season, when people with possible knowledge of the events will be hard to reach and counsel has pre-arranged plans.

In light of the passage of time between the alleged conduct and Mr. Nader filing his complaint, as well as the FEC's handling of the complaint, denying this request for an extension of time would result in substantial harm to the ability of the Ballot Project to respond to the allegations. Fundamental fairness and due process require that the Ballot Project be given sufficient time to review this matter and prepare a proper response.

\* \* \*

Because of the staggering length of the complaint, the vagueness of the allegations in the complaint, and the passage of time between the alleged conduct and Mr. Nader's filing of the complaint as well as the delay in the FEC serving the complaint, we respectfully request an extension of time until January 30, 2009 to file our response.

If you have any questions or wish to discuss this matter, please do not hesitate to contact me at (202) 371-7365.

Sincerely,

A handwritten signature in cursive script, reading "Lawrence M. Noble", followed by a circular stamp containing the word "Noble".

Lawrence M. Noble  
Skadden, Arps, Slate, Meagher & Flom LLP  
Attorney for the Ballot Project

Enclosure

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**FEDERAL ELECTION COMMISSION**  
**899 E Street, NW**  
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**STATEMENT OF DESIGNATION OF COUNSEL**  
**Please use one form for each Respondent/Client.**  
**FAX (202) 219-3523**

**MUR #** 6021

**NAME OF COUNSEL:** Lawrence Noble, Preeta Bansal

**FIRM:** Skadden, Arps, Slate, Meagher & Flom LLP

**ADDRESS:** 1440 New York Avenue, N.W.

Washington, D.C. 20005

**TELEPHONE- OFFICE** (202) 371-7365

**FAX** (202) 661-0565

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

11-5-08  
**Date**

*Steven D. Laikin*  
**Respondent/Client Signature**

*Former Secretary/Treasurer*  
*Ballot Project*  
**Title**

**RESPONDENT/CLIENT** Ballot Project  
**(Please Print)**

**MAILING ADDRESS:** 1730 Rhode Island Avenue N.W. Suite 1730

Washington, D.C. 20036

**TELEPHONE- HOME** (703) 644-2051

**BUSINESS** (202) 487-8100

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437(g)(1)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

Rev. 8/88

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